HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1350 of 2003 (SS)

Smt. Pitambari vs. Director, Forest Research Institute

Approved for reporting.

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~~Not approved for reporting~~

Date of decision. 10.11.2003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1350 of 2003 (SS)

Smt. Pitambari Nautiyal …….… Petitioner

Versus

Director Forest Research Institute, Dehradun
& another ……..…. Respondents

Sri S.K. Posti, Advocate for the petitioner
Standing Counsel for the Respondents.

Dated:-10.11.2003

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties.

By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus directing the respondents to constitute the Departmental promotion committee and consider the case of the petitioner for promotion in Technical Assistant Grade 'C' post and to give effect the direction of Hon'ble Supreme Court as provided in annexure-1 to this writ petition.

Brief facts giving rise to the present writ petition are that petitioner joined service with the respondent on daily wage basis on 22.6.1981. The petitioner's services were regularised w.e.f. 26.8.1988. The petitioner along with other daily wage labourers approached the

Apex Court and the Apex Court was pleased to pass the following order on 10.3.1988:

"Heard the learned counsel for the parties, we have also perused the writ petition and two counter affidavits. It is not disputed that the petitioners have been working in the establishment for more than 4 to 5 years. This gives us the impression that there is regular need for this employment. Though this is the position, petitioners are being continuing as daily rated employees, we do not think should be permitted when the wage of daily rated employees is about half of regular employees. We direct the opposite party respondent to absorb the petitioners on regular basis. If there be any other similarly situated employees senior to them they should be given the same benefit. This should be done within three months hence. Initially the absorption should be against group D posts and as and when departmental opportunity against group 'C' posts open up, they should be considered. The writ petition is disposed of accordingly with no order as to costs."

From the aforesaid observations of the Apex Court it appears that Hon'ble Supreme Court has directed that initially absorption should be against the group 'D' posts and as and when departmental opportunity against group 'C' posts open up the petitioners may be considered for the same.

Learned counsel for the petitioner has stated that so far as the first observation of the Apex Court is concerned the services of the petitioner was regularised in the year 1998.

So far as the second submission of the petitioner is concerned according to the directions of the Apex Court they have not been considered against group 'C' posts although according to the petitioner vacancies were occurred on account of promotion of five persons on 25.10.03.

The petitioner has also alleged that on Manjeet Kaur was promoted to group 'C' although she figures at serial No.57 in the joint seniority list of the group 'D'.

The petitioner has made a representations on 27.10.2000, 18.12.2000, 11.1.2001, 1.2.2001, 26.4.2001, 5.12.2002 and 23.5.2003 but even then the respondents have not constituted the departmental promotion committee.

Sri G.S. Bisht, Counsel for the respondent no.1 and 2 has submitted that the petitioner will be considered for promotion according to eligibility criteria. He has also informed that promotion of Smt. Manjeet Kaur has already been cancelled by the Department. There is nothing on the record to suggest that promotional exercise has been done according to the directions of the Apex Court.

Since there is order of the Apex Court for considering the promotion of the petitioner from Group 'D' to Group 'C' respondents are directed to comply the directions given in the judgment of Apex court.

The respondents are directed to decide the representation of the petitioner by a reasoned order in the light of judgment of Apex Court.

With the aforesaid observations the writ petition is disposed of.

10.11.2003 **(Rajesh Tandon, J.)**
Dhyani